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**UNITED STATES DISTRICT COURT**

**DISTRICT OF OREGON**

**ASTORIA DOWNTOWN MARKET, et  
al.,**

Plaintiffs,

**v.**

**Case No. 3:18-cv-01367-AC**

**DEFENDANT'S UNOPPOSED  
MOTION FOR A STAY OF CASE  
DEADLINES IN LIGHT OF LAPSE OF  
APPROPRIATIONS**

**UNITED STATES OF AMERICA,**

Defendant.

**CERTIFICATE OF COMPLIANCE WITH LR 7-1**

Counsel for Defendant, United States, has conferred with Plaintiffs' Counsel by phone, and Plaintiffs' Counsel has no objection to a stay of this civil case.

**MOTION**

Defendant, by Billy J. Williams, United States Attorney for the District of Oregon and through Alison Milne, Assistant United States Attorney, respectfully moves for a stay of all case deadlines in the above-captioned case. Plaintiffs previously filed an Application for Stay of Entire Case Due to

the Lapse of Appropriations which was denied without prejudice by this Court. This Court granted permission for Defendant to file a motion presenting facts supporting a stay of proceedings in this case. This is Defendant's first motion for a stay of proceedings. Defendant is mindful of Standing Order No. 2019-3, but "good cause" exists for the stay because (1) the Civil Division of the U.S. Attorney's Office is furloughed; (2) employees at U.S. Department of Agriculture and its Food and Nutrition Service also are furloughed; and (3) a denial of the stay would cause an undue personal financial burden on Civil Division employees.

1. On December 21, 2018, the appropriations act that funded the Department of Justice, including the U.S. Attorney's Office, expired and appropriations lapsed. The funding for the agency that is the subject of this litigation, U.S. Department of Agriculture and its Food and Nutrition Service, also lapsed. It is unknown when funding will be restored.

2. Absent funding, Assistant U.S. Attorneys and support staff assigned to the Civil Division of the U.S. Attorney's Office are prohibited from working, even on a voluntary basis, except in very limited circumstances not present here. 31 U.S.C. § 1342. As a result, the support staff and non-supervisory Assistant U.S. Attorneys assigned to the Civil Division of the U.S. Attorney's Office have been furloughed. Undersigned counsel is one of the furloughed employees. Federal law prohibits furloughed employees from working on matters for the United States for the duration of the shutdown. *Id.* In addition, the employees at U.S. Department of Agriculture and its Food and Nutrition Service are also furloughed. These employees are therefore unable to participate in this civil litigation, including preparing the administrative record and providing facts necessary to respond to the allegations.

3. During the shutdown, the U.S. Attorney's Office is prohibited from using funding for litigation resources necessary for the defense of this civil case. For instance, the office cannot pay expert witnesses or pay fees related to depositions, such as court reporters, transcripts, and travel. If

this court were to deny a stay, undersigned counsel and support staff would be required to pay for case-related expenses out of their own pockets subject to reimbursement whenever the shutdown ends. The Civil Division employees are not in a financial situation to “float” business expenses. They are already suffering from the financial (and emotional) strain of the shutdown. Indeed, they must continue to timely pay their own personal obligations, though they are unpaid and have not received past paychecks. A denial of the stay would require undersigned counsel or other employees of the Civil Division to incur personal debt for business expenses and pose an undue financial burden on those employees.

4. Defendant respectfully requests a stay of all case deadlines until Congress has restored appropriations. If this motion for a stay is granted, undersigned counsel will notify the Court within 10 business days after Congress has appropriated funds, and will submit a joint status report or a proposed scheduling order.

### **CONCLUSION**

Defendant respectfully moves for a stay of this civil case until the Civil Division of the U.S. Attorney’s Office is permitted to resume its usual civil litigation functions.

Dated this 23rd day of January, 2019.

BILLY J. WILLIAMS  
United States Attorney  
District of Oregon

/s/ Alison Milne  
ALISON MILNE  
Assistant United States Attorney